

Contract # 059090**STATE OF UTAH CONTRACT**

1. **CONTRACTING PARTIES:** This contract is between the following agency of the State of Utah:
Department: Transportation Agency Code: 810 Division: Richfield District, referred to as (STATE), and the following
CONTRACTOR:

Cove Cleaning and Landscaping
Name
600 South 960 West
Address
Richfield UT 84701
City State Zip

LEGAL STATUS OF CONTRACTOR

- ☐ Sole Proprietor
☐ Non-Profit Corporation
☒ For-Profit Corporation
☐ Partnership
☐ Government Agency

Contact Person Troy Olson Phone #435-896-7450 Email troy.olson@sevier.k12.ut.us
Federal Tax ID# 529239644 Vendor # 102090A Commodity Code # 98852000000

2. **GENERAL PURPOSE OF CONTRACT:** The general purpose of this contract is to provide:
Lawn Care at the Richfield District labs
3. **PROCUREMENT:** This contract is entered into as a result of the procurement process on RX# 810 56000000024, FY2005, Bid#RF5033.
4. **CONTRACT PERIOD:** Effective date: 1 October 2004 Termination date: 30 September 2009 unless terminated early or extended in accordance with the terms and conditions of this contract.
5. **CONTRACT COSTS:** CONTRACTOR will be paid a maximum of \$10,000.00 for costs authorized by this contract.
6. **ATTACHMENT A:** Division of Purchasing's Standard Terms and Conditions
ATTACHMENT B: Scope of Work
ATTACHMENT C: Pricing
ATTACHMENT D: Special Terms and Conditions
Any conflicts between Attachment A and other Attachments will be resolved in favor of Attachment A.
7. **DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:**
a. All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this contract.
b. Utah State Procurement Code, Procurement Rules, and CONTRACTOR'S response to Bid #RF5033 dated 09/14/2004.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR**STATE**

Contractor's signature

Date

Agency's signature

Date

Type or Print Name and Title

Director, Division of Purchasing

Date

Director, Division of Finance

Paul Rottmann801-965-4078801-965-4073prottmann@utah.gov

Agency Contact Person

Telephone Number

Fax Number

Email

(Revision 09/30/2003)

ENT'D FEB 22 2005

JUN 17 2005

ATTACHMENT A: STANDARD TERMS AND CONDITIONS

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63-56, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the State to purchase certain specified services, and other approved purchases for the State.
2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** Any and all supplies, services and equipment furnished will comply fully with all applicable Federal and State laws and regulations.
4. **RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records shall be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and State Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended.
6. **CONTRACTOR, AN INDEPENDENT CONTRACTOR:** The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the State to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by the State. The Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the State for these contract services. Persons employed by the State and acting under the direction of the State shall not be deemed to be employees or agents of the Contractor.
7. **INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release the State OF UTAH, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the Contractor's officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence.
8. **EQUAL OPPORTUNITY CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.
9. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
10. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the same persons or by persons holding the same position as persons who signed the original agreement on behalf of the parties hereto, and attached to the original signed copy of the contract.
11. **DEBARMENT:** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the State Director of Purchasing within 30 days if debarred by any governmental entity during the Contract period.
12. **TERMINATION:** Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon 90 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
13. **NONAPPROPRIATION OF FUNDS:** The Contractor acknowledges that the State cannot contract for the payment of funds not yet appropriated by the Utah State Legislature. If funding to the State is reduced due to an order by the Legislature or the Governor, or is required by State law, or if federal funding (when applicable) is not provided, the State may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from the State upon 30 days written notice. In the case that funds are not appropriated or are reduced, the State will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and the State will not be liable for any future commitments, penalties, or liquidated damages.
14. **SALES TAX EXEMPTION:** The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.
15. **WARRANTY:** The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable

for any special purposes that the State has relied on the contractor's skill or judgment to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

16. **PUBLIC INFORMATION:** Contractor agrees that the contract will be a public document, and may be available for distribution, and Contractor gives the State express permission to make copies of the contract and/or of the response to the solicitation in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
17. **DELIVERY:** Unless otherwise specified in this contract, all deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State except as to latent defects, fraud and Contractor's warranty obligations.
18. **ORDERING AND INVOICING:** All orders will be shipped promptly in accordance with the delivery schedule. The Contractor will promptly submit invoices (within 30 days of shipment or delivery of services) to the State. The State contract number and/or the agency purchase order number shall be listed on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by the State will be those prices listed in the contract. The State has the right to adjust or return any invoice reflecting incorrect pricing.
19. **PAYMENT:** Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. All payments to the Contractor will be remitted by mail unless paid by the State of Utah's Purchasing Card.
20. **PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.
21. **ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the State.
22. **DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the State to declare Contractor in default of the contract:
1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract. The State will issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the State may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages, if liquidated damages are listed in the contract; 4. Suspend Contractor from receiving future solicitations.
23. **FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The State may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.
24. **PROCUREMENT ETHICS:** The Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63-56-73, Utah Code Annotated, 1953, as amended).
25. **CONFLICT OF TERMS:** Contractor Terms and Conditions that apply must be in writing and attached to the contract. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be: 1. State Standard Terms and Conditions; 2. State Special Terms and Conditions; 3. Contractor Terms and Conditions.

(Revision date: Nov 21, 2003)

ATTACHMENT B SCOPE OF WORK

LANDSCAPING MAINTENANCE SERVICES FOR THE UTAH DEPARTMENT OF TRANSPORTATION (UDOT) REGION 4 Materials Lab located at 690 South 100 West, Richfield, UT 84701

1.0 REQUIREMENTS for CARE of LANDSCAPING and IRRIGATION SYSTEM.

This schedule itemizes the tasks expected in the regular care of landscaping and the irrigation system, and is the **minimum acceptable performance**. The contract award from this ITB will be a five year contract.

Note: In the following specifications, State Representative, shall mean The Region Lab Manager or his designee. Contractor, shall mean the Contractor or employees of the Contractor. Currently, the State Representative is Larry Gay.

1.1 Mowing and trimming of lawns

- 1.1.1 All lawn areas shall be mowed and trimmed to a height of 2 ½ inches weekly from May 1st through September 30th. Frequency before May 1st and after September 30th shall be coordinated with the State Representative, but shall not be grounds for additional charges.
- 1.1.2 All grass clippings shall be bagged and properly disposed of immediately, unless an approved mulching mower is used.
- 1.1.3 All clippings shall be removed from all sidewalks, roadways, curbs and gutters.
- 1.1.4 Trimming shall occur along all walkways, curbs, garden or flowerbed areas, tree wells, fences, edges of buildings and other areas that require trimming. Lawn edges shall be trimmed vertically and shall be neat, straight and uniform in appearance.
- 1.1.5 With each mowing, the Contractor shall pick up and properly dispose of, litter and loose vegetation (like tumble weeds) from the property and along fence lines.

1.2 Weeding, Cultivating and Fertilizing

- 1.2.1 Weeding and cultivating shall occur every two (2) weeks. Weeding shall be complete within 48 hours of the start time.
- 1.2.2 All areas including tree wells and planters shall be kept in a relatively weed free condition.
- 1.2.3 Cultivating is defined as breaking the soil by raking or scuffle hoe to a depth of one (1) inch. The cultivated soil shall be left in a pleasing appearance.
- 1.2.4 Weeds shall be Manually removed from all areas of the property. If spraying with herbicides is required and/or more efficient as determined by the State Representative the herbicides will be provided and applied by the State.
- 1.2.5 Weeds shall be removed from all sidewalk cracks each week.
- 1.2.6 Lawns, trees and areas of bedding plants shall be fertilized three (3) times per year. Applications shall be one (1) in the early to mid spring, one(1) in the early summer and one (1) during the fall.
- 1.2.7 Fertilizer shall be furnished by the Contractor and approved by the State Representative prior to use.

1.3 Pruning and Trimming Trees and Shrubs

- 1.3.1 Shrubs shall be trimmed once (1) a month to the desired length, which will be approved by the State Representative. Shrubs shall be kept in a manicured and neat manner.
- 1.3.2 Trees shall be pruned as necessary to keep them neat and healthy, or as directed by the State Representative.

1.4 Irrigation System Maintenance

- 1.4.1 Repair or replace all malfunctioning sprinkler heads and valves.
- 1.4.2 Repair any leaks or broken pipe.
- 1.4.3 Adjust sprinkler heads to provide 100% coverage while minimizing over spray onto adjacent buildings, walks and roadways.

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- 1.4.4 Program the automatic controller at the beginning of each month to conform to the requests of the State Representative
- 1.4.5 Start up the irrigation system near April 15th or as requested by the State Representative.
- 1.4.6 Winterize the irrigation system by November 1st, or earlier as requested by the State Representative, each year. Pressurize the mainline. Flush the mainline, valves and lateral lines. Close the stop and waste valve. Using an air compressor blow the water out of the irrigation lines.

1.5 Fence Maintenance

Apply coat of 50/50-Linseed Oil/Mineral Sprits once (1) a year to wood fence located on the North side of building. The State will provide the Linseed Oil and Mineral Sprits, Contractor will provide sprayer to apply it.

NOTE: When there are problems in caring for certain areas, confer with the State Representative for possible solutions. Changes in methods, equipment, or timing may be needed.

2.0 SUPPLIES AND EQUIPMENT

- 2.2 The Contractor shall provide commercial chemicals and see that they are labeled properly. A list of all chemicals to be used shall be submitted in writing to the State Representative for approval at least fifteen (15) days before beginning the work. Materials Safety Data Sheets shall be available on site for reference as necessary.
- 2.3 The Contractor shall provide the following commercial grade equipment: lawn mower, edger, trimmer, leaf blower, tree pruners, shrub trimmer and any other equipment required to perform the work in a safe and efficient manner.
- 2.4 Equipment shall be kept in good repair. Equipment which is in such state of repair as to potentially damage either the property or personnel therein shall not be used or allowed on the premises.

3.0 CONTRACTOR PERFORMANCE

- 3.1 Contractor liability for damage - The Contractor shall repair or replace anything damaged by their operation at no expense to the State. If there is any damage (i.e., buildings, grounds, equipment or vehicles) the Contractor will have one week after written notice to repair and restore the item(s) to original condition. If repairs are not made within one week of notice, the State will repair at own expense and deduct the cost from the next payment. All work shall be performed in a professional manner and be of first class quality.
- 3.3 Work Force - The Contractor shall provide sufficient workers, who comply with State Labor Laws, to provide the services specified.
- 3.4 Authority to do work - Individuals performing the services for the Contractor must be given complete authority to work with the State Representative in the performance and rating of the services outlined in the contract. The State will not accept responsibility for communication between the Contractor and the Contractor's employees.
- 3.5 Work hours - Work Hours are typically Monday thru Friday, after 5:00 p.m. and prior to 7:00 a.m., excluding State authorized holidays unless otherwise approved by the State Representative.

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- 3.6 Inspection Reports - The Contractor shall work closely with the designated State Representative who shall inspect the area on a monthly basis. Upon completion of inspections, the State Representative will meet with the Contractor to review inspection results. A copy of the inspection report shall be kept on file at the region.

4.0 SECURITY

The Contractor shall secure gates, doors and turn off interior lights each night after work is complete. Any irregularities such as vandalism shall be reported to the State Representative.

5.0 EXTRA WORK

Other services may be requested as necessary. The cost of these services shall be negotiated between the Contractor and the State Representative and billed separately from this contract. The base rate of this contract shall be minimum wage.

6.0 CONDUCT THAT SHALL NOT BE TOLERATED, and MAY BE CAUSE for IMMEDIATE TERMINATION OF THE CONTRACT.

- 6.1 Theft, abuse or misuse of supplies or equipment at any location in the building.
- 6.2 Verbal, physical or sexual abuse / harassment of any person - contractor personnel, State employee, or visitor.
- 6.3 Use of, or displaying the effect of the use of alcohol or illegal drugs at the work site.
- 6.4 Failure to follow specific security instructions.
- 6.5 Deliberate or habitual failure to follow standard safety practices and instructions.
- 6.6 Allowing to be brought or the bringing of children, or other persons who are not legally employed by the Contractor to the facility.
- 6.7 Smoking in buildings.
- 6.8 Use of radio, telephone or other electronic devices that could in any way disrupt or hinder the work of the user or others at the work site.

7.0 PROVIDING INFORMATION TO THE STATE

- 7.1 Prior to beginning work the Contractor shall provide to the State Representative a schedule describing how the work will be accomplished and details of specific tasks. The schedule must be updated as it changes.
- 7.2 The Contractor shall provide the State Representative with a list of names and telephone numbers of individuals who will be supervising the services described in this Request for Proposal. Temporary substitutions due to illness or emergency can be made without prior approval. The Contractor must immediately notify the State Representative of any changes to personnel and provide a new list of names and telephone numbers of those supervising the work.

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8.0 RESTRICTED AREAS

Restricted areas are areas / rooms to which the Contractor will not be allowed access. Any area designated by the State Representative may be included as a restricted area.

9.0 SAFETY

- 9.1 The Contractor shall make every effort to protect and keep safe anyone present while work is being performed.
- 9.2 The Contractor shall provide all safety apparatus necessary to protect their personnel so they may operate equipment safely.
- 9.3 The Contractor is responsible for the safe operation of all equipment and shall properly train all employees in the safe operation of all equipment before allowing them to use the equipment.

10.0 INSPECTION

- 10.1 The Contractor shall work closely with the designated State Representative, who shall inspect the area monthly for acceptable work and compliance with the terms of this contract.
- 10.3 The contract may be terminated following written notices of unacceptable inspections.

Attachment C
Pricing for Landscaping Services at Region 4 Headquarters

1. Pricing is bid at \$120.00 per month for the services described in Attachment B, Scope of Work. Pricing is firm for a period of two (2) years from the effective date of this contract.
2. Invoicing for services shall be done monthly.
3. Extra Work: Work that is in addition to the regularly scheduled work described in ATTACHMENT B.
 - 3.1 Labor shall be billed at \$10.00/Hour
 - 3.2 Mowing shall be billed at \$10.00/Hour.
 - 3.3 Materials(does not include tools) will be reimbursed at cost.

ATTACHMENT D
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SPECIAL TERMS AND CONDITIONS

6. **NON-COMPETE CLAUSE**

The Contractor represents its officers and employees are free to contract with the State and are not subject to restrictions by the terms of their present employment including, but not limited to an agreement not to compete for a period of time unless disclosure has been made. A Contractor must disclose to the State any possible conflict, in writing, before the contract is signed and the State will evaluate whether to continue with contract execution. The State may elect to terminate a contract immediately with a Contractor who is subsequently determined to be subject to such restrictions without liability to the State. If the State elects to terminate a contract for this reason, the State will supersede paragraph #12 in Attachment A - Standard Terms and Conditions and will not provide 90 day prior notice to the Contractor.

7. **CONTRACT ACCEPTANCE**

At the time the bid was signed by the Offeror, the signature of that Offeror was be used as a legally binding signature to award this contract. When signed by the Division of Purchasing and a Utah Department of Transportation representative and assigned a contract number, this document is a legally binding contract with the Offeror for the contract period specified.

8. **EMPLOYEE AUTHORITY**

Individuals performing services for the Contractor shall have authority to coordinate the work of this contract with the State Representative(s). The State does not accept any responsibility for coordination and/or communication between the Contractor and the Contractor's employees.